
EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:

☐ All Child Care Evaluator Manual Holders
☐ All Residential Care Evaluator Manual Holders
☒ All Evaluator Manual Holders

Transmittal No.
11RM-02

Date Issued
July 2011

Subject:

Reference Material - Office Functions 2-6000 Public, Personal and Confidential Information.

Reason for Change:

Clarification that all records in the facility files, including applications, are public unless exempted in the Public Records Act or protected by confidentiality laws.

Filing Instructions:

REMOVE – Pages 20, 21 and 21.1.

INSERT – Pages 20, 21, and 21.1

Approved:

ORIGINAL DOCUMENT SIGNED BY
Thomas Stahl, Chief

July 27, 2011

THOMAS STAHL Chief
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Date

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2-5700 RE-EVALUATION OF WAIVER/EXCEPTION**2-5700**

Licensing Program Analysts should review waiver(s)/exception(s) prior to annual inspection or as often as necessary to insure that safe and adequate care is provided to client(s)/resident(s).

During the site visit, document on the Licensing Report (LIC 809) whether the conditions of the waiver/exception request have or have not been met. Depending upon the re-evaluation, the waiver/exception may be extended or terminated. If no significant changes have occurred in the circumstances or conditions of the currently approved waiver/exception, indicate this on the LIC 809. If the waiver/exception will be extended, the extension date shall be specified on the LIC 809. In most cases it should not be necessary to issue a new waiver/exception form but if circumstances have changed or if additional conditions should be imposed it may be necessary to complete a new document.

2-6000 PUBLIC, PERSONAL AND CONFIDENTIAL INFORMATION**2-6000**

The Information Practices Act of 1977 and the California Public Records Act define the rights of citizens to have access to information collected, used, and maintained by virtually all State agencies. Additionally, State agencies are under strict rules regarding how public, personal, and confidential information can be collected, used, released, and retained.

The Public Records Act (Government Code, Section 6250-6265) states, "The Legislature, mindful of the rights of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in the State." The Act also requires departments to establish written guidelines for public accessibility to Department records (See Department of Social Services Administrative Manual 3-3000 to 3-4302). The Information Practices Act (Civil Code Section 1798 et. seq.) provides that individuals have the right to inquire and be notified if the Department maintains a file on them and to receive copies of such records if they so desire. Additionally, the Community Care Facilities Act (Health and Safety Code, Section 1500 et. seq.) requires that reports on the results of each (licensing) inspection, evaluation, or consultation regarding the facility shall be kept on file in the Department and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

All records in the facility files are considered public unless exempted in the Public Records Act or protected by confidentiality laws. All client confidential information shall be redacted prior to public review. There is no exemption in the Public Records Act for applications (even prior to licensure). However, personal information (such as education, financial, medical, driver's license numbers, social security numbers, date of birth, names of children living in the facility, etc.) in the applications would need to be redacted prior to release under the Public Records Act. Additionally, names, addresses and other identifying information contained in applications for foster family homes for 6 or fewer children and small family child care homes must be redacted. This restriction also applies to documents pertaining to certified family homes for 6 or fewer children.

2-6000 PUBLIC, PERSONAL AND CONFIDENTIAL INFORMATION**2-6000**

(Continued)

Therefore, applications for these types of facilities do not need to be produced as the required redaction renders the application “meaningless.”

The Department of Social Services Administrative Manual (Section 3-3010) requires each licensing office to post guidelines regarding access to public records. To comply with this mandate, each licensing agency must post Guidelines for Inspection of Public Records in a prominent place that is readily accessible to the public.

The Information Practices Act requires that (1) personal and confidential information be maintained only if necessary to accomplish the legally mandated purposes; (2) information should be requested directly from the individual rather than other sources; (3) individuals shall have a right to refuse to disclose information; (4) individuals shall have a right to request an amendment to personal records; (5) information shall be disclosed only under specific conditions; and (6) persons providing information to be notified where records are kept and have access to the personal information.

As a result of a lawsuit filed against the California Department of Social Services by CBS Broadcasting Inc., and in accordance with the Court of Appeal of the State of California, Second Appellate District’s decision filed August 21, 2001, the names of individuals with criminal record exemptions and the identification of the facility with which they are associated is considered public information. This information will be made available in response to a public record request, including a request to review the facility file.

2-6100 REQUEST TO REVIEW INFORMATION**2-6100**

When an interested individual requests information related to licensing standards regarding a community care facility in person, that individual may receive, for a reasonable charge the following:

1. One copy of the published regulations for each licensing category requested by the individual.
2. One copy of the civil penalty regulations for all requested categories except for exempted facilities.

If the interested individual contacts a licensing office by phone, mail or e-mail, the interested party shall be referred to the Community Care Licensing Division’s internet Website to obtain the requested material (www.cclld.ca.gov).

To receive information regarding deficiency notices, waivers, and/or exceptions issued to facilities which serve or may serve SSI recipients, an interested individual must request such information by specifying the name of the affected facility(ies). Additionally, the individual shall be given the opportunity to review the public file for each specified facility and receive the following free of charge.:

1. One copy of each waiver or exception issued to that facility, if requested by the individual. If clients are named in these documents the name shall be blocked out before release to the public.

2-6100 REQUEST TO REVIEW INFORMATION (Continued)**2-6100**

2. One copy of any licensing report (LIC 809 or LIC 9099) issued to that facility if requested by the individual.
 - a. Please note that all confidential information which may include Confidential Names (LIC 811), Detailed Supportive Information (LIC 812) or Photography Reports (LIC 813) shall not be released.
3. The names of individuals currently associated with the facility who have been granted a criminal record exemption.
 - a. The names of the affected individuals will be provided using the LIS Exemption Listing (LIS 505). County Licensing Offices must maintain a list of persons with exemptions granted, in the facility file.
 - Run a current Exemption Listing (LIS 505).
 - Attach to the LIS 505, a copy of the Caregiver Background Check Information (LIC 995F).
 - The current LIS 505 and the attachment will then be filed in the public section of the facility file.
 - b. When providing exemption information in response to a telephone request, the Licensing Program Analyst should inform the interested party that:
 - By law, the Department is allowed to provide only the names of individuals with criminal record exemptions. Therefore, no specific information about criminal convictions or history can be provided.
 - A criminal record exemption means that the individual has a criminal record that was reviewed by the Department, and a determination was made that the individual would not pose a risk to the health and safety of clients in care if the individual was allowed to have contact with clients.
 - The exemption process includes an evaluation of the crime committed, the length of time that has passed since the person was convicted, what the person has done since the conviction to show that he/she has been rehabilitated, and character references.
 - The interested party should also be advised that the information provided is the most up-to-date information available, but that some individuals may no longer be associated with the facility. If more information is requested, the interested party should be referred to the licensee.